

REMARKS/ARGUMENTS

Claims 1-20 are now active in this application. Claim 1 has been amended to specify that the lamellar structure of the present composition consists of one or more fatty acid monoglyceride(s), and thus eliminate the possibility that the lamellar structure contains a second lipid. New claims 14-20 have been added. New claim 14 further adds the presence of cholesterol as a component of the skin composition. This amendment is supported by the specification and claims as originally filed. New claims 15-20 correspond to various of the dependent claims 2-13, but dependent on claim 14. No new matter has been added by these amendments.

The claims of the present application were previously rejected over Mathur et al, alone or in combination with Yiournas et al. However, neither of these references disclose a composition as now claimed, which contains a lamellar structure *consisting of* one or more fatty acid monoglyceride(s).

Mathur et al disclose blended lipid vesicles which must contain a primary lipid, disclosed in column 2 of Mathur et al to include fatty acid monoglycerides and a secondary lipid different from the primary lipid and also disclosed in column 2 of Mathur et al. The composition for forming the lipid vesicles may further include cholesterol, but must include both the primary and secondary lipids (see column 3, line 66 through column 4, line 14 of Mathur et al). Mathur et al further disclose the addition of retinoic acid with the blended lipid vesicles in Table 2 and Table 5 of the reference.

In column 4, the reference states that “in certain circumstances, cholesterol will allow these materials which will not otherwise form a lamellar phase to form a lamellar phase, **but they cannot be formed into the vesicles without the addition of a secondary lipid**” (emphasis added). Therefore, it is clear that Mathur et al teaches away from a skin preparation having a lamellar structure consisting of one or more fatty acid monoglyceride(s)

and one or more of vitamin A, and vitamin A precursor(s), derivative(s), and decomposed product(s) thereof. The so-called lamellar phase discussed in column 4 of the reference is further never used for carrying a material to form a skin preparation composition and does not have a lamellar structure capable of carrying vitamin A, and vitamin A precursor(s), derivative(s) and decomposed product(s) thereof, but must be further formed into vesicles by the addition of a secondary lipid. The secondary lipid is now definitively excluded from the claims by the recitation of a term “consisting of”.

The Examiner’s previous comments regarding whether the specification gives a clear indication of what the basic novel characteristics of the present invention are, is now irrelevant, since the claims state “consisting of”, thus indicating that no other components can be present in the lamellar structure. Mathur et al cannot suggest the present invention as now claimed, since this would go directly against the teachings of Mathur et al, who teach that it is essential for their invention to contain the second lipid. Applicants note that the “secondary lipid” required by Mathur et al is nowhere disclosed or suggested to be a different fatty acid monoglyceride, but is rather only disclosed to be a compound such as a quaternary dimethyldiacyl amine, a polyoxyethylene acyl alcohol, a polyglycerol fatty acid, or a sorbitan fatty acid ester (see column 2, lines 37-45). Accordingly, the claims as now amended clearly distinguish over Mathur et al.

In addition to the arguments for patentability in the paragraph above, Yiournas et al does not remedy the deficiencies of Mathur et al since Yiournas et al is directed only to the disclosure that multi-lamellar vesicles are said to be “best for encapsulation in transportation of lipophilic materials” and does not teach or suggest a skin preparation having a lamellar structure consisting of one or more fatty acid monoglyceride(s), and one or more of vitamin A and vitamin A precursor(s), derivative(s) and decomposed product(s), as in the present claims. The claims thus distinguish over the combination of references.

Application No. 09/913,721  
Amendment Accompanying RCE

Applicants note that the application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

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